

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

EMMANUEL JONES,

Plaintiff,

v.

CIVIL NO. 1:23-CV-85
(KLEEH)

STATE OF WEST VIRGINIA,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7]
AND REMANDING ACTION

On October 27, 2023, pro se Plaintiff Emmanuel Jones ("Plaintiff") filed a "Removal of West Virginia State Case to the District Court of the United States for the Northern District of West Virginia" [ECF No. 1]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") [ECF No. 6]. On October 31, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the complaint without prejudice and remand the action to state court.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely

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file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Plaintiff accepted service of the R&R on November 13, 2023 [ECF No. 8]. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 7]. This action is **REMANDED** to state court for lack of subject matter jurisdiction and shall be **STRICKEN** from the Court's active docket. All pending motions in this action shall be **TERMINATED**.

It is so **ORDERED**.

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The Clerk is directed to transmit copies of this Order to counsel of record; the Circuit Clerk of Monongalia County, West Virginia; and the pro se Plaintiff by certified mail, return receipt requested.

DATED: December 15, 2023

A handwritten signature in black ink, appearing to read "Tom S. Klee", is written over a horizontal line.

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA